

REGULATIONS GOVERNING CERTIFICATION FOR EYE ENUCLEATION

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I. GENERAL

1-1. Purpose:

The purpose of these regulations is to safeguard the public's health, safety, and welfare by establishing minimum qualifications and creating exclusive titles corresponding to the level of qualifications for individuals who wish to perform eye enucleation. Further, in order to insure the highest degree of professional conduct by those engaged in the performance of eye enucleation, it is the purpose of these regulations to provide and impose disciplinary sanctions, be they civil or criminal, against persons who do not meet or adhere to the procedures, qualifications, and standards set out in this chapter.

1-2. Legal Authority:

The State Board of Health is authorized to establish and enforce these rules and procedures by virtue of Sections 41-39-11 of Mississippi Code of 1972, annotated.

1-3. Definitions:

The following terms shall have the meaning set forth below, unless the context otherwise requires:

- (a) "Board" shall mean the Mississippi State Board of Health.
- (b) "Council" shall mean the Eye Enucleation Advisory Council.
- (c) "Certified" and "Certification" shall mean the issuance of a certificate of competence by the Board.
- (d) "Eye Enucleation" shall mean the removal of the eyeball after the eye muscles and optic nerve have been severed.
- (e) "Performance of Eye Enucleation" shall mean an enucleation of the eye conforming to the medical standards of the Eye Bank Association of America.

- (f) "Licensed for the Practice of Funeral Services" shall mean an individual, licensed by the Mississippi State Department of Health, to engage in the practice of funeral services, including the practice of embalming, pursuant to Section 73-11-43 et seq. of Mississippi Code of 1972, annotated.
- (g) "Department" shall mean the Mississippi State Department of Health.
- (h) "Act" shall mean Section 41-39-11 of Mississippi Code of 1972, annotated.

1-4. Publication:

The Department shall publish, annually, a list of the names and addresses of all persons certified by the Board as Eye Enucleator, and a list of all persons whose certification has been suspended, revoked, denied renewal, put on probationary status, censured or reprimanded.

II. EYE ENUCLEATOR ADVISORY COUNCIL ("COUNCIL")

2-1. Council Structure and Purpose:

The Council shall consist of five (5) members, who shall serve without compensation. They shall be selected by the Department, to serve under the jurisdiction of the Department for a three (3) year term. The purpose of the Council is to serve in an advisory capacity to the Department in matters relating to the administration and interpretation of the Act.

2-2. Meeting:

The Council shall meet at places and at a times designated by the Department. A quorum shall consist of three (3) members of the Council, including the chairman, and shall be necessary for the Council to take action by vote.

III. STATE BOARD OF HEALTH ("BOARD")

3-1. Responsibilities:

The Board shall:

- (a) establish examination, certification, and renewal of certification criteria for applicants;
- (b) maintain an up-to-date list of all individuals certified to perform eye enucleation, with such list being available, upon request, to the public;
- (c) refer disciplinary actions of any individual engaged in the performance of eye enucleation to the appropriate government agency for prosecution, whether certified or otherwise, or, in its discretion, refer same to the appropriate committee or council;
- (d) conduct disciplinary hearings, upon specified charges;
- (e) maintain an up-to-date list of all individuals whose certification has been suspended, revoked, or denied, and make such list available to public inspection, and shall supply such list to similar regulatory boards in other states or jurisdictions;
- (f) keep a record of all proceedings of the Board, and make said record available to the public;
- (g) delegate, authorize, and direct the Department to promulgate and regulate, as may be necessary, to accomplish the purpose of the Act.

IV. CERTIFICATION

4-1. Certification Requirements:

An applicant for certification shall submit to the Department, verified by oath, written evidence in form and content satisfactory to the Department that the applicant:

- (a) is licensed for the practice of funeral services as defined in Section 1-3 (F) of these rules and regulations, and
- (b) has successfully completed a course, approved by the Department, in eye enucleation.

4-2. Certified By Endorsement:

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4-3. Grandfather Clause:

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4-4. Temporary Permit:

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4-5. Abandonment:

An application shall be deemed abandoned by the Department if, after six (6) months from the date of filing, the requirements for certification have not been completed and submitted to the Department.

V. PROFESSIONAL IDENTIFICATION

5-1. Titles and Abbreviation:

A person issued a certificate of competence to perform Eye Enucleation by the Mississippi State Board of Health may use the title, "State Certified Eye Enucleator".

5-2. Production and Display of License:

A person issued a certificate of competence to perform eye enucleator by the Mississippi State Board of Health shall show said certificate when requested.

VI. RENEWAL OF LICENSE

6-1. General Provisions:

- (a) The Board shall issue certification, which shall be renewed biennially.
- (b) The certification year shall be construed as January 1 through December 31.

6-2. Procedure for Renewal of License:

The Department shall mail a renewal form, at least thirty (30) days prior to the renewal date, to the last address registered with the Department, to the persons to whom certification were issued or renewed during the preceding renewal period. The applicant for renewal shall:

- (a) complete the renewal form, and
- (b) submit proof of continuing education credit as detailed in Section VII of these regulations, and
- (c) enclose the renewal fee, and
- (d) file the above with the Department prior to the end of the renewal period.

6-3. Failure to Renew:

An individual who does not file, with the Department, his renewal application within the renewal period will be deemed to have allowed his certification to lapse. Said certification may be reinstated by the Department, in its discretion, by the payment of the renewal fee provided said application for reinstatement is made within six (6) months of the end of the renewal period.

VII. CONTINUING EDUCATION

7-1. Definition and philosophy:

Each individual certified by the Board is responsible for maintaining high levels of skill and knowledge. Continuing education is defined as education beyond the basic preparation required for certification and related to the performance of eye enucleation.

7-2. Requirements:

Regulations set the requirements for continuing education as follows:

- (a) The performance of an eye enucleation during the two year licensure period, or
- (b) Recertification in eye enucleation by the "Mississippi Lions Eye Bank, Inc." or other such course as approved by the Department.

7-3. Content Criteria:

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7-4. Sources of Continuing Education:

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7-5. Reporting Procedures for Continuing Education:

Each application for renewal of certification shall have, attached to it, proof that the requirements as set forth in Section 7-2 have been fulfilled.

VIII. REVOCATION, SUSPENSION, AND DENIAL OF CERTIFICATION

8-1. Standards of Conduct:

Individuals who are certified may, at the discretion of the Board, have their certification suspended, revoked, or denied at the time of renewal if the Board determines that the individual is guilty of any of the following:

- (a) Is guilty of fraud or deceit in procuring or attempting to procure a certification or renewal of certification to perform eye enucleation.
- (b) Is unfit or incompetent by reason of gross ignorance, negligence, habits or other causes of incompetency.

- (c) Is habitually intemperate in the use of alcoholic beverage.
- (d) Is convicted of an offense involving moral turpitude.
- (e) Is knowingly practicing while suffering with a contagious or infectious disease.
- (f) Is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics.
- (g) Is guilty of dishonest or unethical conduct.
- (h) Has performed eye enucleation after his certification has expired or has been suspended.
- (i) Has practice eye enucleation under cover of any permit or license illegally or fraudulently obtained or issued.
- (j) Has violated or aided or abetted others in violation of any provision of law, or these regulations.
- (k) Has engaged in any conduct considered by the Board to be detrimental to the profession of eye enucleation, or the practice of funeral service, as defined in section 1-3 of these regulations.

8-2. Summary Suspension:

The Board may summarily suspend certification without a hearing, simultaneously with the filing of a formal complaint and notice of hearing, if the Board determines that:

- (a) The health, safety, or welfare of the general public is in immediate danger; or
- (b) The individual's physical capacity to practice his profession is in issue; or
- (c) The individual's mental capacity to practice his profession is in issue.

8-3. Complaints:

All complaints concerning a certified individual, his business, or professional practice, shall be reviewed by the Department. Each complaint received shall be logged, recording at a minimum the following information:

- (a) name of individual certified;
- (b) name of the complaining party, if known;
- (c) date of complaint;
- (d) brief statement of complaint; and
- (e) disposition

8-4. Investigation:

All complaints will be investigated and evaluated by the administrative secretary or other authorized employee of the Department.

8-5. Notice of Charges and Hearing:

Following the investigative process, the Department may file formal charges against the certified individual. Such formal complaint shall, at a minimum, inform the respondent of the facts which are the basis of the charge and which are specific enough to enable the respondent to defend against the charges.

Each respondent, whose conduct is the subject of a formal charge which seeks to impose disciplinary action against him, shall be served notice of the formal charge at least thirty (30) days before the date of hearing. A hearing shall be presided over by the Board or the Board's designee. Service shall be considered to have been given if the notice was personally received by the respondent, or the notice was mailed certified, return receipt requested, to the respondent at his last known address as listed with the state agency.

The notice of the formal hearing shall consist at a minimum of the following information:

- (a) The time, place and date of hearing;
- (b) That the respondent shall appear personally at the hearing and may be represented by counsel;
- (c) That the respondent shall have the right to produce witnesses and evidence in his own behalf and shall have the right to cross-examine adverse witnesses; and evidence

- (d) That the hearing could result in disciplinary action being taken against the respondents certification.
- (e) That rules for the conduct of these hearings exist and it may be in the respondent best interest to obtain a copy; and
- (f) That the Board, or its designee, shall preside at the hearing and following the conclusion of the hearing shall make findings of facts, conclusions of law and recommendations, separately stated, to the Board as to what disciplinary action, if any, should be imposed on the respondent.

The Board or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the respondent. At the conclusion of the hearing, the Board shall issue an order, within sixty (60) days.

Disposition of any complaints may be made by consent order or stipulation between the Board and the respondent.

All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to State law.

8-6. Board Sanctions:

The Board may impose any of the following sanctions, singly or in combination, when it finds that a respondent is guilty of any of the above offenses:

- (a) Revocation of the certification;
- (b) Suspension of the certification, for any period of time;
- (c) Censure the individual certified;
- (d) Issue a letter of reprimand to the individual certified;
- (e) Place a certification on probationary status and require the individual to submit to any of the following:

- (1) report regularly to the board upon matters which are the basis of probation;
 - (2) continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of probation; or
 - (3) such other reasonable requirements or restrictions as are proper;
- (f) Refuse to renew a certification; or
- (g) Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.

8-7. Appeal:

Any person aggrieved by a decision of the Board shall have a right of appeal as provided for in the Laws of the State of Mississippi.

IX. EXCEPTIONS AND EXEMPTIONS

9-1. Exceptions:

- (a) Nothing in these regulations is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of Mississippi.

9-2. Good Samaritan Act:

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X. AIDES, ASSISTANTS AND APPRENTICES

10-1. Registration:

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10-2. Supervision:

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10-3. Notice of Termination:

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XI. CRIMINAL OFFENSES AND PUNISHMENT

11-1. Offenses:

It is a violation of the law for any person to:

- (a) Sell, fraudulently obtain or furnish any certificate of competence, or aid or abet therein.
- (b) Use the title, "State Certified Eye Enucleator" or any words, letters, signs, symbols or devices to indicate the person using them has received a certificate of competence from the Mississippi State Department of Health.
- (c) Fail to notify the Board of the suspension, probation or revocation of any past or currently held licenses or certifications, required to perform eye enucleation in this or any other jurisdiction.
- (d) Make false representations or impersonate or act as a proxy for another person or allow or aid any person to impersonate him in connection with any examination or application for certification or request to be examined or licensed.

(e) Make a material, false statement in an application for certification, or in a response to any inquiry by the State Department of Health or the Board.

(f) Otherwise violate any provisions of the Act, or regulations of the Board.

11-2. Punishment:

Such violations shall be a misdemeanor, and shall be punishable by a fine not to exceed Five Hundred Dollars, (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both.

XII. FEES

12-1. Method of Payment:

The following fees, where applicable, are payable to the State Board of Health by check, or money order. Fees paid to the State Board of Health are non-refundable.

12-2. Schedule of Fees:

Application and Initial Licensure Fee - \$10.00

Renewal Fee - \$10.00

Reinstatement Fee - \$5.00

Replacement Fee - \$5.00

Duplication Fee - \$5.00

Name Change Fee - \$5.00

12-3. Examination Fee:

Fees for examination are to be paid directly to the appropriate testing organization.

XIII. ADMINISTRATIVE GRIEVANCE PROCEDURE

13-1. Administrative Appeals:

All persons aggrieved by a decision regarding the initial application for certification, or the renewal of certification, shall have the right of administrative appeal and a hearing to be conducted according to the rules of the Department of Health.

13-2. Notification:

Written notice will be provided to all applicants regarding denial of an original license or a renewal license. Such notice shall contain the reason thereof and shall offer the applicant an opportunity to submit additional information pertinent to their application for a second review by the Department.

13-3. Hearing:

If requested in writing within the specified time frame a hearing will be provided in which the applicant may show cause why the license should be granted or renewed.

Within sixty (60) days of the hearing, or other such time frame as determined during the hearing, written findings of fact, together with a recommendation for action on the license in question, shall be forwarded to the State Health Officer. The State Health Officer shall decide what action will be taken on the recommendation within five days of its receipt. Written notice shall be provided to the applicant.